

### REMARKS

Claims 1, 3, 4, 6, 7, 9, 10, 12, 13, 15, 19, 21, 22, and 24 are all the claims that are pending in this case. Claims 2, 5, 8, 11, 14, 20, and 23 have been canceled and claims 1 and 3 have been amended by this Amendment. No new matter has been added.

While this is in response to a final rejection, it is believed that the foregoing amendments to the claims should be entered for two reasons. Firstly, while this is a final rejection, the Examiner cited and applied as a primary reference a new reference. This new reference is not in response to amendments to the claims presented in the previous response, since the amendments presented in the previous response only went to clarifying the wording of claim 1 in response to a **formal** rejection. The scope of claim 1 was not changed and those amendments simply obviated that formal rejection.

As a second reason, the amendments to claim 1 merely rewrite now canceled claim 2 in independent form as amended claim 1. The reason for this is that an appeal of the rejection of claim 1 would not be made and, accordingly, rewriting claim 2 in independent form as amended claim 1 merely presents claim 2 in better condition for appeal, should an appeal be necessary.

Accordingly, it is believed that the foregoing amendments to the claims are proper and should be entered at this time.

Since claim 1 is now canceled and the remaining claims in the application depend directly or indirectly on amended claim 1, which is claim 2 rewritten in independent form, as explained above, the only outstanding rejection is that under 35 U.S.C. 103(a) as unpatentable

over Roth et al. '453 in view of Jones et al. '544. The Roth patent is newly cited and the Jones patent is the patent which was previously relied upon by the Examiner in rejecting claims under 35 U.S.C. 102(e). That rejection has been dropped by the Examiner and, accordingly, the only outstanding rejection is that mentioned above, i.e. under 103, as unpatentable over Roth et al. in view of Jones et al.

The Jones reference was discussed in some detail in the previous response, and that discussion will not be repeated herein. It is merely pointed out to the Examiner, as set forth in the last response, that the intended gaseous atmosphere of the Jones et al. process is an atmosphere which is substantially **free of oxygen** and other contaminants and preferably contains less than 0.1 % oxygen (see the last paragraph in column 4, and especially lines 65-67). Accordingly, the atmosphere of Jones et al. **cannot possibly contain air**, one of the required elements of the present invention. This is because the process of Jones et al. is actually a fluorination process and is intended for modifying the surface of a polymeric article to contain fluorine atoms by exposure of the polymeric article to an atmosphere that includes a fluorine species. The process must be carried out in an atmosphere that will not interfere with the addition of fluorine to the surface of a polymeric article, and as disclosed by Jones et al., a species that would constitute such interference is oxygen. Therefore, the Jones et al. process clearly excludes air as an ingredient of the atmosphere.

The Examiner now relies upon a combination of the Roth et al. patent and the Jones et al. patent. The substance of the rejection is that the Examiner alleges obviousness in regard to using the fibers taught by Jones et al. in the method taught by Roth et al. However, it is

axiomatic in patent law that the Examiner cannot pick and choose from references, portions thereof, while ignoring other portions thereof that are contrary to the claimed invention in order to reach the present invention. The Examiner **ignores** the clear fact that Jones et al. is directed to treating fibers in a fluorination process and Jones et al. teach **nothing** in regard to using such fibers in **other than fluorination process**. Further, while Roth et al. is directed to a glow discharge plasma, it is directed to a very different process of using the glow discharge plasma, as compared with the present invention. In this latter regard, Roth et al. provides narrow material flow slits 23 in isolation barrier 22 between plates 10 so to provide a predetermined residence time of web W between the plates 10 (see column 4, lines 30-36). As best seen in Figure 6, that residence time is provided by reciprocating a gas flow containing an **active species** generated by the plasma, back and forth through the web, which reciprocating gas flow is achieved by bellow 35 or piston 36 (see column 4, lines 57-69). This flow differential assures an internal saturation of the web W by the gas containing the **active species generated by the plasma** (see column 5, lines 8-10). The active species generated by the glow discharge plasma include, among others, photons, individual atoms, free radicals, molecular fragments, electrons, and ions (see column 1, lines 53-65). These active species are absolutely necessary to the process of Roth et al. (as summarized in claim 1 of that patent), **and the glow discharge plasma is arranged to generate those active species**.

Contrary to Roth et al., the plasma of the present invention is not one that generates any **active species**, but involves either cumulative or alternatively, etching, cleaning, and increasing the amount of additives from the interior surface of the micro fibers (see paragraphs

24, 25, and 26 of the present specification). With the present process, i.e. treatment with the present gaseous plasma, **electrostatic charging** is improved (see paragraph 35 of the present disclosure), and that is the purpose of the invention, as was originally brought out in originally presented claim 2 and now the subject matter of amended claim 1.

It is difficult for the Applicants to see how one of ordinary skill in the art viewing the Roth et al. process which teaches the **generation of an active species** and viewing the Jones et al. process which teaches fluorination of a polymeric fiber with the **exclusion of air**, could arrive at the present process of **improving electrostatically charged fibers** by the present operation of a gaseous plasma in the **presence of air** and **without the active species** of Roth et al. Neither has the Examiner provided any rationale that would allow any combination of the two references, by any logical progression, to arrive at the present invention. The Examiner has merely “shopped” the references to pick out isolated and contradictory parts thereof in arriving at the present rejection, which is quite contrary to established case law and so well known that citations are not necessary.

Also, the Examiner has provided no **motivation** taught by either of the references for modifying either of the two references to arrive at the present invention, and the establishment of such motivation is required under the law for a proper rejection, as the Examiner quite well knows.

These foregoing absences in the Examiner’s position are clear, and it is further most clear that the combination of the two references, recited by the Examiner in the outstanding action, is merely nothing more than picking and choosing from contradictory references, isolated

portions thereof, as guided by the **present specification**, to reach a conclusion of obviousness of the present invention, as set forth in now amended claim 1. Therefore, it is believed that the rejection is clearly in error and should be withdrawn.

Accordingly, an early and favorable action by the Examiner is most respectfully requested.

#### CONCLUSION

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Fred Whisenhunt, Reg. No. 24,378 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: February 12, 2007

Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant